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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

FEB 13 2023

United States District Court		District: <u>Shelby County</u>		Wendy R. Oliver, Clerk U.S. District Court W.D. OF TN, Memphis
Name (under which you were convicted): <u>Rodney V. Turner</u>			Docket or Case No.: <u>10-02344</u>	
Place of Confinement: <u>TENNESSEE Dept. OF Corrections</u> <u>(Northwest Correctional Complex)</u>			Prisoner No.: <u>00417958</u>	
Petitioner (include the name under which you were convicted) <u>Rodney V. Turner</u>		Respondent (authorized person having custody of petitioner) <u>v. TENNESSEE DEPT. OF CORRECTIONS (Northwest</u> <u>CORRECTIONAL COMPLEX)</u>		
The Attorney General of the State of:				

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

State of Tennessee, Memphis Shelby County Criminal Court (10)

- (b) Criminal docket or case number (if you know):

2. (a) Date of the judgment of conviction (if you know):
- Approx 08-15-2011/08-16-2011

- (b) Date of sentencing:
- SEPT. 16 2011

3. Length of sentence:
- 50 YEARS total.

4. In this case, were you convicted on more than one count or of more than one crime?
- ☒
- Yes
- ☐
- No

5. Identify all crimes of which you were convicted and sentenced in this case:
- I was convicted of (d)<sup>+</sup>
- 
- counts of Criminal Attempt 1st degree murder (1)<sup>+</sup> count of
- 
- Employing A Firearm during A Felony!!!

6. (a) What was your plea? (Check one)

☒ (1) Not guilty ☐ (3) Nolo contendere (no contest)

☐ (2) Guilty ☐ (4) Insanity plea

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(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to? Not Guilty!!!

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: Criminal Court of Appeal (At Jackson TN) Direct Appeal

(b) Docket or case number (if you know): 10-02394

(c) Result: Denied..

(d) Date of result (if you know): Not Sure, Sorry!

(e) Citation to the case (if you know): Not Sure, Sorry!

(f) Grounds raised: (1) Sentence Range (2) Cruel and Unusual Punishment (3) Mitigation proof (4) Pretrial Rule 609 Hearing (5) Right to testify (6) Impeach Mr. Higgs (7) Fingerprint Expert (8) Paramedics and Post-Run Report (9) Inadequate Meetings with Petitioner (10) Rules 403 and 404 (11) Brady Violation (12) Rule 11 Application (13) Cumulative Error

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: TENNESSEE SUPREME COURT WESTERN SECTION

(2) Docket or case number (if you know): 10-02394

(3) Result: DENIED TO EVEN REVIEW...

(4) Date of result (if you know): Not Sure, Sorry!

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(5) Citation to the case (if you know):

Not Sure, Sorry.

(6) Grounds raised:

(1) Sentence Range (2) Cruel and Unusual Punishment (3) Mitigation  
 Proof (4) Pretrial Rule 609 HEARING (5) Right to testify (6) IMPEACH Mr. Higgs (7) Fingerprint  
 Expert (8) Paramedics and Post-Run Report (9) Inadequate MEETINGS WITH the PETITIONER  
 (10) RULES 403 and 404(b) (11) Brady Violation (12) Rule 11 Application (13) Cumulative Error

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know):

N/A

(2) Result:

N/A

(3) Date of result (if you know):

N/A

(4) Citation to the case (if you know):

N/A

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☐ Yes ☒ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result:

N/A

(8) Date of result (if you know):

N/A

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(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_  
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(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: \_\_\_\_\_

(2) Docket or case number (if you know): \_\_\_\_\_

(3) Date of filing (if you know): \_\_\_\_\_

(4) Nature of the proceeding: \_\_\_\_\_

(5) Grounds raised: \_\_\_\_\_  
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\_\_\_\_\_

N/A (6) Did you receive a hearing where evidence was given on your petition, application, or motion?  
☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No

(2) Second petition: ☒ Yes ☐ No

(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I tried to Appeal to the Tennessee Supreme Court (or highest court in Tennessee)  
 I was denied Review Because my lawyer Failed to meet time limit. REF. post conviction Hearing

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: Sentence Range

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

On appeal, the petitioner contends that his convictions in case number 06-09513 three counts of Robbery and one count of attempted aggravated Robbery, all stemmed from a "single" criminal episode and, therefore, should be considered as a single offense for the purposes of sentencing enhancement under the twenty-four hour merger Rule. I acknowledge, however, that several unreported decisions from this Court are contrary to his position.

(b) If you did not exhaust your state remedies on Ground One, explain why: I did exhaust them, Denied Relief.

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## (c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

## (d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post-convictionName and location of the court where the motion or petition was filed: State of Tennessee - post convictionDocket or case number (if you know): 10-02394Date of the court's decision: Not sure, Appx 2021 April if not mistg/ben.Result (attach a copy of the court's opinion or order, if available): not provided. OK.

(3) Did you receive a hearing on your motion or petition?

☒ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Shelby County, Memphis TN or  
Court of Criminal Appeals of Tennessee at JacksonDocket or case number (if you know): 10-02394Date of the court's decision: not sure sorry.Result (attach a copy of the court's opinion or order, if available): OK.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

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(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: I tried all State Remedies, I was not Allowed

Appeal to Tennessee State Supreme Court For Ineffective Counsel.

**GROUND TWO:**

Cruel and Unusual punishment

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The Eighth Amendment, which is applied to the States through the Fourteenth Amendment, prohibits Cruel and Unusual punishment and Requires that the punishment imposed must Be proportional to the Severity of the offense in the Capital Case context.

(b) If you did not exhaust your state remedies on Ground Two, explain why: I did.

**(c) Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why: yes.

**(d) Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Post-conviction, no isolated motions IF that's what you ask?

Name and location of the court where the motion or petition was filed:

Criminal Court of Shelby County  
Memphis, TN.

Docket or case number (if you know): 10-02374

Date of the court's decision:

not sure.

Result (attach a copy of the court's opinion or order, if available):

Not available

(3) Did you receive a hearing on your motion or petition?

☒ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Court of Criminal Appeals of Tennessee

Docket or case number (if you know):

10-02394

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two:Never Filed A habeas corpus, wasn't aware of state hab!**GROUND THREE:**Mitigation proof

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

my overall character should be considered



(b) If you did not exhaust your state remedies on Ground Three, explain why: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

\_\_\_\_\_

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Post Conviction

Name and location of the court where the motion or petition was filed: Shelby County Criminal Court

Docket or case number (if you know): 10-02394

Date of the court's decision: not sure

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☒ Yes ☐ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Criminal Court of Jackson TN

Docket or case number (if you know): 10-02394

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: motion post-conviction, Direct Appeal  
tried Supreme Court, Denied Cause of lawyers.

**GROUND FOUR:** Pretrial Rule 609 Hearing

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Tennessee Rule of Evidence 609 provides that A prior conviction may be used  
to impeach A witness, so long as certain requirements are met.

(b) If you did not exhaust your state remedies on Ground Four, explain why:

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes

☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

post conviction / Direct Appeal

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Name and location of the court where the motion or petition was filed:

Shelby County / Jackson Appeal  
Court of TennesseeDocket or case number (if you know): 10-02394

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☒ Yes☐ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Court of Criminal Courts at Jackson  
TennesseeDocket or case number (if you know): 10-02394

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you

have used to exhaust your state remedies on Ground Four:

I filed to All State Courts, the  
highest Court never ~~heard~~ Reviewed it.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

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- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

All been presented!

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14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

N/A

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15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

N/A

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16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Michelle Best

(b) At arraignment and plea: Mr. Coleman Garrett or Garrett Coleman

(c) At trial: Coleman Garrett

(d) At sentencing: Coleman Garrett

(e) On appeal: Megan House / Lance Chism

(f) In any post-conviction proceeding: Lance Chism

(g) On appeal from any ruling against you in a post-conviction proceeding: Lance Chism

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

NA

(b) Give the date the other sentence was imposed: NA

(c) Give the length of the other sentence: NA

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*

NA

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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

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- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: \_\_\_\_\_

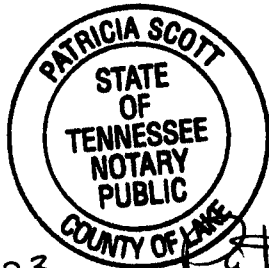
\_\_\_\_\_

or any other relief to which petitioner may be entitled.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on \_\_\_\_\_ (month, date, year).

Executed (signed) on 7 Feb. 2023 (date).



03-28-2023

Raey Th  
Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
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\_\_\_\_\_